

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

JANE DOE,

Plaintiff,

v.

COUNTY OF MILWAUKEE,  
DAVID A. CLARKE, JR.,  
XAVIER D. THICKLEN, and  
JOHN/JANE DOE,

Defendants.

Case No. 14-CV-200-JPS

**ORDER**

On January 30, 2017, the parties filed a joint motion to bifurcate the trial of this matter. (Docket #165). They seek separate trials on the alleged sexual assaults of the plaintiff, which was the subject of summary judgment briefing, and on the plaintiff and other female inmates being shackled during childbirth while incarcerated, which is posed as a class action. *Id.* The trial for this matter is currently set for June 5, 2017, and the parties ask that this date be used for the sexual assault trial, and that the childbirth shackling trial be set in November 2017. *Id.*

The Court will deny the motion. This matter is now almost three years old, and will be more than that by the time of trial. Further, the matter will have been assigned to this branch of the Court for ten months by the current trial date. If the parties have failed to use this extraordinarily extended period to conduct necessary discovery and motion briefing on the class issue, the problem is of their own making.<sup>1</sup> Bifurcation at this stage is inconsistent with Rule 1 of the Federal Rules of Civil Procedure and with the Court's

---

<sup>1</sup>In fact, in the plaintiff's latest status report on the class issue, which was dated September 30, 2016, she stated that she "anticipates she will be in a position to file a motion for class certification within the next 45 days." (Docket #140 at 2). Perhaps that statement was not true, but in any event, no such motion was ever filed.

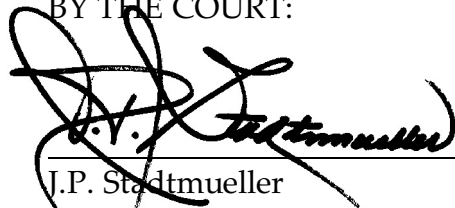
prerogative to conclude this case consistent with the trial scheduling order earlier entered on January 19, 2017. (Docket #162). The Court declines to exercise its discretion to bifurcate the trial of this matter. Fed. R. Civ. P. 42(b); *Volkman v. Ryker*, 736 F.3d 1084, 1088-89 (7th Cir. 2013).

Accordingly,

**IT IS ORDERED** that the parties' joint motion to bifurcate (Docket #165) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 31st day of January, 2017.

BY THE COURT:



J.P. Stadtmueller  
U.S. District Judge